

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9895 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? No.
2. To be referred to the Reporter or not? No.

J

3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? No.

CHOKSI TEJAL PRAVINCHANDRA

Versus

DEAN,M P SHAH MEDICAL COLLEGE

Appearance:

MR A.M. MEHTA, Advocate, for Petitioner
MR J.R. NANAVATI, for Respondents.

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 04/05/96

ORAL JUDGEMENT

The petitioner applied for admission for Post Graduate Course in subjects; (1) Opthapmology(Diploma), (2) Pathology(Diploma) and (3) Radiology(Diploma, in preference at M.P. Shah Medical College, Jamnagar. However, she was not called for interview and denied admission and as such she approached this Court by way of

Special Civil Application which was registered as Special Civil Application No. 7067/92.

2. This court by the order dated 14-10-1992 while issuing rule granted interim relief directing the respondents to admit the petitioner in accordance with her merit. The petitioner was granted admission to Post Graduate Course in the subject of Opthamology. The petitioner completed the course and applied for examinations to be held in April 1994. The respondent University granted permission to the petitioner to appear at the said examination. The petitioner, accordingly, appeared at the examination and result was to be declared on 7-6-1994. However, the petitioner's result was withheld. On inquiry the petitioner was told that the result can be given to her only if she withdraws the writ petition pending before the High Court. The petitioner, accordingly, submitted the application for withdrawal of Special Civil Application pending before the this Court. This Court passed the order dated 21-7-1994 permitting the petitioner to withdraw the petition. However, liberty was granted to the petitioner to file afresh petition in case of difficulty. The respondent University still did not declare the result on the ground that she did not fulfil the minimum qualification for admission to Post Graduate Course. In view of it, the petitioner approached this Court in second round seeking direction to the respondent University to declare the result.

3. An affidavit on behalf of the respondent University has been filed. It is stated that the petitioner was not eligible to appear at April/May 1994 Examination. Under the Ordinance D.O.M.S. 1 and 3. As per D.O.M.S. No.1, the candidate appearing in April/May 1994 Examination must have taken decree of M.B.B.S. of the University or any other University recognised by Saurashtra University. It is submitted that the petitioner appeared at 3rd M.B.B.S. Examination and completed 3rd M.B.B.S. in September 1991 and thereafter she had undergone internship which was required to be over on 15th September 1992. Before completion of one year internship she applied for Degree Course on 7-9-1992. As such on the date of application she had not completed one year internship.

4. In the rejoinder, it is pointed out that the term of Subject course stated from 7-9-1992 and therefore crucial dates are 7-9-92 i.e. date of commencing course and 15-9-1992 i.e. date on which she was required to complete internship. Thus, in fact only 8 days fall

short in completing internship. The question with respect to condonation of delay of such short period of 8 days has been considered by this Court in Special Civil Application No.6243/92 decided on 15-7-1995(Coram: S.M. Soni, J.). This Court noticed that there is always little variation in the period of internship i.e. compulsory rotating housemanship because of different dates of result and commencement of compulsory rotating housemanship in different University. In the said case, there was short of 8/9 days of internship. The Court considering the facts of the case and the fact that the petitioner appeared at the final examination directed the University to declare the result. The facts of the present case are identical to the facts of the case referred to above. It contended by Mr. Nanavati, learned Advocate for the respondent University that the petitioner applied for admission on 18th August 1992 and she was given admission on 21-10-1992 as such she did not completed tow years P.G. Course in the month of April 1994 and therefore she was not entitled to appear at the examination. The petitioner has filed affidavit and stated in para 4 that the respondent no.1 started term from 7-9-92 and 6 other students who were given admission along with the petitioner namely Dr. B.B. Vyas, Dr. D.P. Pandya, Dr. Nazimabai and three others have been allowed to appear at the examination held in April/May 1994 and their results have been declared. Those six students have also not completed the period of two years. As such the case of the petitioner is not distinguishable from the case of those six students. Considering the facts. objection raised by Mr. Nanavati is not sustainable.

5. In view of the aforesaid, this Special Civil Application is allowed and admission of the petitioner is ordered to be regularised and respondent no.3 University is directed to declare the result of the petitioner which has been withheld. Rule made absolute. No order as to costs.